

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

JAMES W. HARDY, JR.,

Plaintiff,

v.

408CV223

JOHN E. POTTER, *Postmaster General of the  
United States*,

Defendant.

**ORDER**


On 3/18/09 Defendant informed the Court of the death of the Plaintiff in this pending case. Doc. # 12. Since then, Plaintiff's wife, Mrs. Agnes Hardy, has supplied the Court with documentation indicating that the Chatham County Probate Court appointed her legal administrator of the Plaintiff's estate. Doc. # 27. The Court construed the filing as a motion to substitute her as plaintiff pursuant to F.R.Civ.P. 25(a), and gave the Defendant an opportunity to respond. Doc. # 28. The Defendant has responded to the motion, stating that he "has no objection to Mrs. Agnes Hardy, in her capacity as the court-ordered personal representative of James W. Hardy, being substituted as the plaintiff in this action." Doc. # 29 at 2.

Pursuant to Rule 25(a)(1), "[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative." F.R.Civ.P. 25(a)(1). The Court has already determined that the underlying Title VII claim survived Plaintiff's death. *See* doc. # 20 at 1 n.2; *Kilgo v. Bowman*, 789 F.2d 859, 876 (11th Cir. 1986) (finding that a "Title VII cause of

action survives under both federal and state law"). With the Court and the Defendant both being satisfied with Mrs. Hardy's documentation evidencing her appointment as the representative of Plaintiff's estate, it appears Rule 25(a)(1)'s requirements have been met and the motion for substitution is therefore **GRANTED**. Doc. # 27.

Furthermore, as Mrs. Agnes Hardy is proceeding *pro se* in the case (just as her husband was when he was the named plaintiff), the Court **RE-REFERS** the case to the Magistrate Judge for full litigation of the underlying Title VII claim(s) at issue here.

This day of 19 November 2009.



B. AVANT EDENFIELD, JUDGE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA